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- Carolyn Lochhead, Chronicle Washington Bureau

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**Washington** -- House and Senate Republican leaders, backed by Democratic African American liberals, moved rapidly Thursday on legislation to blunt last week's Supreme Court decision allowing local governments to seize private property for economic development projects.

Rep. Maxine Waters, a liberal Democrat from South Central Los Angeles, and Rep. Richard Pombo, a rock-ribbed conservative Republican from rural San Joaquin County -- who rarely join forces on any issue -- were among a group that introduced a bill to cut off federal funds for cities that use eminent domain for such projects.

"Democrats and Republicans, conservatives and liberals are going to be organizing behind opposing the Supreme Court decision," Waters said. "It's like undermining motherhood and apple pie. I mean, people's homes and their land -- it's very important, and it should be protected by government, not taken for somebody else's private use."

Pombo, a longtime property rights advocate, said anger at the court's 5-4 decision in a case from New London, Conn., had united rural landowners with suburbanites and city dwellers fearful that cities will eye their homes for hotels, malls or any commercial use they think will generate more tax revenue.

The Supreme Court "is way out of line on this," Pombo said. "There's nothing in the Constitution that allows them to step in and take property away from an individual and give it to somebody else."

The action in Congress comes just months after Republicans suffered intense criticism for trying to intervene in court decisions to remove life support for Terri Schiavo in Florida and as Capitol Hill readies for a clash over a potential Supreme Court vacancy.

The case was brought by the libertarian Institute for Justice and pitted nine landowners in New London against the city's efforts to build a marina, office and retail space on waterfront property near a new \$300 million research facility built by pharmaceutical giant Pfizer Corp.

The nine homeowners included Susette Kelo, who bought her home in 1997, and Wilhelmina Dery, who has lived in her home since her birth in 1918.

The Fifth Amendment's eminent domain clause allows government to take private property

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for public use. Traditionally, this has meant land to build railroads, highways, schools and other public facilities. The government pays property owners a fair market price in exchange for the land.

The question before the court was whether economic redevelopment projects that convert private property to other private uses constitute a "public purpose."

The court, led by Justice John Paul Stevens, concluded that it does, arguing that the justices should defer to the decisions of local governments rather than "crafting an artificial restriction on the concept of public use."

Justice Sandra Day O'Connor dissented, joined by three conservative justices, saying the decision would allow condemnation of any property.

"For who among us can say she already makes the most productive or attractive possible use of her property?" O'Connor argued. "Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

In eight states, not including California, state high court rulings provide a higher level of property protection than the U.S. Supreme Court decision, said Dana Berliner, a lawyer with the Institute for Justice.

The legislation introduced Thursday, backed by the chairman of the House Judiciary Committee, Rep. James Sensenbrenner, R-Wis., and its ranking Democrat, Rep. John Conyers of Michigan, would deprive cities of any federal funds for redevelopment projects that use the power of eminent domain.

In a first step toward the legislation, the House voted 231-189 Thursday in favor of an amendment to an appropriations bill that would bar the departments of Transportation, Treasury, and Housing and Urban Development from providing money to cities that use eminent domain for profit-making projects.

Pombo said he has no worries about criticism that Congress is again trying to interfere with the judiciary, "because we're right on this. Honestly, I'd be shocked if anybody voted against this bill."

Pombo noted that two prominent liberal organizations, the NAACP, a civil rights group, and AARP, a retiree group, sided with the property owners.

"It doesn't take a genius to look at this and figure out who's going to be hurt by it," Pombo said. "It's not the big developers. It's not the wealthy. They have influence. They can stop the city council from taking their property. It's the poor guy who doesn't even know who his city councilman is that's going to be hurt."

Pombo, of Tracy, won his seat in Congress and now chairs the House Natural Resources Committee in part because of his long crusade to protect landowners from alleged "regulatory takings" of their property through enforcement of such laws as the Endangered Species Act.

The Kelo decision raises the stakes, he said.

"This isn't about taking some farmer's ranch for endangered species habitat," Pombo said. "This is about taking your house because the city thinks it has a better use. This affects every homeowner in the country."

House Democratic leader Nancy Pelosi of San Francisco opposes the bill and said Republicans are trying to interfere with the judiciary again.

"This is in violation of the respect for separation of ... powers in our Constitution," Pelosi said.

Pelosi was careful not to say she approved of the high court's ruling. But she said the decision has been made and will require a constitutional amendment to reverse.

People for the American Way, which is leading liberal opposition to President Bush's judicial nominees, noted that the Kelo ruling is among several narrowly divided decisions that demonstrate the importance of the fight over any Supreme Court vacancy.

Elliot Mincberg, the group's legal director, said the case had been brought by the Institute for Justice as part of an effort by conservatives to elevate property rights to the same level of civil rights such as freedom of speech and religion, in effect taking the nation back to the pre-New Deal days when the courts ruled child labor laws unconstitutional.

Mincberg said the court had ruled that "legislatures should decide if a taking is for public use, and we shouldn't get to review it based on the vague wording of the Constitution."

Waters countered that city councils are not a good place for such decisions.

"I am offended by the idea that a big, rich pharmaceutical company could get this kind of decision to build condominiums around a complex they built," Waters said. "I worry about these little cities and towns where big, wealthy developers can influence elected officials with large campaign contributions and undermine what public use and eminent domain was meant to be."

Berliner, of the Institute for Justice, said poor areas were not the only ones targeted.

"Developers want prime real estate, so that's what cities condemn," Berliner said. "That means waterfront property, property in the center of cities, property near transportation hubs, property in areas that are up and coming. All of those routinely get condemned for private development."

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